

STATE OF RHODE ISLAND
COMMISSIONER OF EDUCATION

STUDENT T. DOE, by her father,
Petitioner,
vs.
BARRINGTON SCHOOL DISTRICT
Respondent,

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RIDE No. 23-013L

DECISION AND ORDER

Held: Parent’s appeal of school district’s decision to deny his daughter transportation to school was granted because the parent provided evidence that the student qualified for “suitable transportation” under the school district’s policy and the district was unable to provide reasonably sufficient evidence that the distance to the school rendered the student ineligible.

Date: June 23, 2023

On February 3, 2023, Petitioner, the father of Student T. Doe (“Doe”), a sixth-grader at Barrington Middle School, wrote the Commissioner on behalf of his daughter to appeal the decision of the Barrington School District Superintendent (the “Superintendent”) denying his daughter transportation to school. For the reasons discussed below, the appeal is granted, and the Respondent, Barrington School District (the “District” or “Respondent”), is ordered to provide Student T. Doe with suitable transportation to school.

I. Jurisdiction and Standard of Review

The Petitioner has standing as an aggrieved party, and the Commissioner has jurisdiction to hear this matter pursuant to R.I. Gen. Laws § 16-39-1. In addition, it is well-established that the applicable standard of review is *de novo*. See, e.g., *Alba v. Cranston School Committee*, 90 A.3d 174, 184-85 (R.I. 2014); *A. Doe v. East Greenwich Sch. Comm.*, RIDE No. 18-063A (Sept. 4, 2018). The Petitioner has the burden of proof by a fair preponderance of the evidence. See *Larue v. Registrar of Motor Vehicles, Dept. of Transp.*, 568 A.2d 755, 758-59 (R.I. 1990), citing *Gorman v. Univ. of Rhode Island*, 837 F.2d 7, 15 (1st Cir. 1988).

II. Facts

The following facts were found following an evidentiary hearing before the undersigned Hearing Officer on March 28, 2023 and are based on the numerous documents that were introduced into evidence by the parties as well as the testimony of: (1) Student T. Doe’s father; (2) Police Officer; (3) Superintendent; and (4) Geospatial Analyst.¹

1. Before the start of the 2022-2023 school year, the District enacted a Transportation Policy (the “Policy”), which stated that bus transportation to school would be provided to qualifying Barrington residents. Resp’t. Ex. 2 at 1.

¹ Out of respect for their privacy, the witnesses’ names will not be included in this Decision.

2. The Policy separates students into two groups: those in grades K-5 and those in grades 6-12. *Id.* at 2.

3. In order to be eligible for transportation, students in grades K-5 must live more than three-quarters of a mile from their school, while students in grades 6-12 must live more than 1.30 miles from their school. *Id.*

4. The Policy describes the manner in which distances will be measured by the District. “Distances will be determined according to the shortest and safest walkable route (from the property line of the home property to the driveway entrance of the school) according to the measurement tool utilized by the transportation company employed by the District.” *Id.*

5. The Policy allows for exceptions to the distance and route methodology based on the needs of individual students or in the event of an emergency. *Id.*

6. In addition, the Policy describes the process by which requests for transportation are considered and appeals heard. “Initial requests for reviews are submitted to the Transportation Coordinator who will follow District Policy and Protocols.” *Id.* at 3.

7. Decisions of the Transportation Coordinator may be appealed to the Director of Finance. Any appeals of the decisions of the Director of Finance may be appealed to the Superintendent and appeals of the Superintendent’s decision may be made to the Rhode Island Department of Elementary and Secondary Education (“RIDE”). *Id.*

8. At all relevant times, Petitioner and Student T. Doe resided at Residential Address.²

9. In August of 2022, Petitioner made a request for transportation for Student T. Doe to the Barrington Middle School from the Transportation Coordinator. Resp’t. Ex. 6 at 2. In that request, Petitioner alleged that Student T. Doe was eligible for transportation because their

² Out of respect for their privacy, the family’s address has not been included.

home is more than 1.30 miles from the middle school. As proof, he cited data from Apple Maps and Google Maps that show that Residential Address is more than 1.30 miles from the school. *Id.*

10. The Transportation Coordinator denied Petitioner's request. She determined that the distance was 1.27 miles based on the transportation company's routing system, Versatrans. *Id.* at 1.

11. On September 22, 2022, the Director of Finance denied the Petitioner's appeal of the Transportation Coordinator's decision after a review of the route was conducted by the District Safety Team. Resp't. Ex. 10 at 3.

12. Sometime in August or September, Petitioner filed an appeal of the Director of Finance's decision with the Superintendent. Tr. 60:10-14.

13. On February 3, 2023, Petitioner filed an appeal of the Superintendent's decision with RIDE. Pet'r Ex. C at 1.

III. Positions of the Parties

1. Petitioner, father of Student T. Doe

Petitioner argues that his daughter, Student T. Doe, is eligible for transportation to and from her school because she lives more than 1.30 miles from the Barrington Middle School. Petitioner also argues that the walking route to the school is unsafe, which qualifies her for transportation even if her home is found to be 1.30 miles from school or less. In support of Petitioner's first argument, he includes various maps with distance calculations of the approved route that purport to show that their home is located at a qualifying distance from the school and argues that the distance computed by the District is inaccurate. For his second argument, Petitioner

contends that his daughter is small for her size and that the route to the school that was chosen by the District is hazardous, especially during times of inclement weather.

2. Respondent, Barrington School District

The District responds that Petitioner's home is within 1.30 miles of the middle school; thus, Student T. Doe is not eligible for transportation. In support, Respondent relies on the measurement by the transportation software, Versatrans. Further, Respondent argues that the walking route is safe for Student T. Doe based on the recommendation of the District Safety Team.

IV. Decision

School committees in Rhode Island are under a statutory duty to provide "suitable transportation" to and from school when the distance of a student's residence from school renders the pupil's "regular attendance at school impractical." *See* R.I. Gen. Laws § 16-21-1. In construing the relevant statute, the Rhode Island Supreme Court noted that § 16-21-1:

Should not be read so narrowly as to preclude consideration of factors other than distance in determining whether or not a child is entitled to bus transportation. The critical issue under the statute is whether the distance the child travels is so great as to make it impractical for the child to attend school regularly. The commissioner therefore may properly consider a host of factors affecting the practicality of traveling the distance to and from school.

See Brown v. Elston, 445 A.2d 279, 282-83 (R.I. 1982); *see also Houle v. Galloway Sch. Lines, Inc.*, 643 A.2d 822, 826 (R.I. 1994) ("municipalities must provide school-bus service to each such pupil's residence that is located beyond a reasonable walking distance from the school.") The Commissioner has made clear that, in addition to distance, age and hazard are among the factors that may be relevant. *See In the Matter of Student K.M.*, RIDE No. 0036-00 (October 26, 2000).

Here, Petitioner offers several pieces of evidence to support his claim that his residence is greater than 1.30 miles from Barrington Middle School. In his appeal, he provides distance

measurements of the approved route from Google Maps showing that the distance from his home to Barrington Middle School via the approved route, is 1.37 miles. Pet'r. Ex. C at 7.³ He includes a distance measurement from AAA that also calculates the distance at 1.37 miles. Pet'r. Ex. B at 2.⁴ In addition, Petitioner produces a measurement of the same route as calculated by Apple Maps stating that the distance is 1.4 miles. *Id.* at 8.

In support of its position, Respondent relies exclusively on the distance calculated by Versatrans. Resp't. Ex. 12 at 6. Versatrans is a software program that was purchased by third party Ocean State Transit. Tr. 126:24-127:1-6. The Superintendent was not aware of any reason why Ocean State Transit used Versatrans for determining distances, as opposed to other similar software programs, except that it is a national company. *See id.* at 127:7-11. Importantly, the Superintendent was unable to say whether Versatrans was more or less accurate than other GPS systems like Google Maps. *See id.* at 127:15-20. No evidence of the relative reliability or accuracy of Versatrans was offered into evidence by Respondent.

In fact, during the course of Petitioner's discussions with Respondent prior to his appeal, it was discovered that Versatrans's initial measurement was incorrect. The initial measurement was provided to Petitioner by the District Transportation Coordinator in an email on August 16, 2022. Resp't. Ex. 6 at 1. The Transportation Coordinator stated, "Per the routing system, your home is 1.27 miles from the school." *Id.* The route map is attached to her email, and it identified the home address as Residential Address, the school as Barrington Middle School, and the distance

³ The distance calculated by Google Maps is only displayed to the tenth of a mile; however, the measurements for each segment are shown. Simple addition demonstrates that the distance measurement is more than 1.30 miles. Segment 1 is 400 feet, segment 2 is 0.4 miles, and segment 3 is 0.9 miles. 400 feet + 0.4 miles + 0.9 miles equals 1.37 miles. To be clear, this measurement does not contradict the 1.3 mile measurement displayed at the top of the printout. 1.3 miles does not mean 1.30 miles, it only indicates that the measurement has only been calculated within a tenth of a mile.

⁴ Again, the measurement is only shown to the tenth of a mile, but adding up the segments shows that the distance is 1.37 miles. (381 feet + 0.4 miles + 0.9 miles = 1.37.)

as 1.27 miles. Pet'r. Ex. C at 9. On January 11, 2023, Petitioner emailed the Transportation Coordinator informing her that he had closely examined the map, and he believed that it measured the distance incorrectly. Resp't. Ex. 12 at 1. The Transportation Coordinator agreed and noted that "the point on the map for your house [] is off a little." *Id.* She adjusted the route, and Versatrans re-measured the distance at 1.28 miles—even though the home address and the school location were the same as the initial route. *See id.* There is no indication that this was caused by a clerical error resulting from an incorrect input. The origin and destination points remained the same in each route map; however, Versatrans measured the exact same points but provided two different distance calculations.

Based on a careful review of all the evidence, the undersigned Hearing Officer concludes that Petitioner has met his burden of proof that it is more likely than not that the distance between his home and the school is more than 1.30 miles. Petitioner provided evidence from multiple different GPS systems that all measured the distance of the approved route to be greater than 1.30 miles. Pet'r. Ex. C at 7, 8; Ex. B at 2. In contrast, Respondent provided only one measurement from a GPS system with no evidence that this software program was more accurate than those offered by Petitioner, or any other available software program. Moreover, the accuracy of Respondent's measuring software is demonstrably unreliable in this case because it produced two different results for measuring the same distance. Pet'r. Ex. C at 9; Resp't. Ex. 12 at 1.

The Commissioner does not ordinarily reverse the decisions of a local school committee "unless there has been a violation of statewide education policy or an arbitrary and capricious decision at the local level." *See, e.g., Doe v. Foster-Glocester Reg'l Sch. Dist.*, RIDE No. 22-045A, 3 (Sept. 13, 2022) (internal quotations omitted); *B. Doe v. South Kingstown Sch. Comm.*, RIDE No. 012-15 (September 15, 2015). Decisions are not arbitrary and capricious so long as

they are “rational, logical, and supported by substantial evidence.” *Goncalves v. NMU Pension Trust*, 818 A.2d 678, 683 (R.I. 2003) (quoting *Doyle v. Paul Revere Life Ins. Co.*, 144 F.3d 181, 184 (1st Cir. 1998). “Substantial evidence” has been interpreted by the Rhode Island Supreme Court to mean “evidence reasonably sufficient to support a conclusion.” *Id.*

Under the circumstances of this case—specifically, the fact that Versatrans produced differing measurements for the same distance, that no other evidence of distance was relied upon or provided by Respondent, and that the Petitioner provided multiple measurements by other GPS systems that all showed the distance was more than 1.30 miles—the argument that the distance between Petitioner’s home and the Barrington Middle School was not “reasonably sufficient” to support that conclusion. *See id.* Thus, the decision that Student T. Doe was ineligible for transportation was arbitrary and capricious because it was not supported by substantial evidence. *See id.* As the decision on distance renders the other issues moot, no further discussion of the issues presented and heard at the hearing is necessary.

IV. Order

For all the above reasons:

1. Petitioner’s appeal from the decision of the Barrington School District is granted.
2. The Barrington School District is hereby ordered to forthwith provide suitable transportation to school to Student T. Doe .

Andrew M. Lentz, Esq.,
as Hearing Officer for the Commissioner

Angélica Infante-Green,
Commissioner of Education

Date: June 23, 2023